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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,798	06/16/2000	William J. Brosnan	IGT1P021/P-239	3320
22434	7590	01/28/2005	EXAMINER	
BEYER WEAVER & THOMAS LLP			HOTALING, JOHN M	
P.O. BOX 70250				
OAKLAND, CA 94612-0250			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/595,798	BROSNAN, WILLIAM J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John M Hotaling II	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 October 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-37 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/15/04
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/21/04 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 11-13, 15-23, 25-28 and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vuong et al. (U.S. Patent No. 5,762,552; hereafter "Vuong") in view of Ng (U.S. Patent No. 5,971,855; hereafter "Ng"). The rejection contained in the previous office action is maintained and incorporated herein.

Claims 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vuong et al. (U.S. Patent No. 5,762,552; hereafter "Vuong") in view of Olsen et al. (U.S. Patent No. 5,987,376; hereafter "Olsen"). The rejection contained in the previous office action is maintained and incorporated herein.

Claims 10, 14 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Vuong in view of Ng as applied to claims 1-9, 11-13, 15-23 and 25-32 above, and further in view of Weiss (U.S. Patent No. 5,611,730). The rejection contained in the previous office action is maintained and incorporated herein.

***Response to Arguments***

Applicant's arguments filed 10/21/04 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With respect to the applicant's arguments that Ng does not teach downloading software for generating a wager type game of chance It is noted that Vuong discloses the wager type game with information that is passed between the games but lacks in disclosing that the information is specifically software. In an analogous game system for sending information between games there is disclosed in Ng in column 3 lines 34-60 software is loaded on the PC which is part of and attached to the hand held game machine. Additionally, this section says that website can download upgrades or modify the preprogrammed game. This is downloading software. With respect to the passage cited with respect to the modification of the EEPROM this section states that the

software is loadable on the PC by a website via the internet and that the separate software is only limited by the memory resources of the personal computer. With respect to the wagering game of chance, this is disclosed by Vuong.

With respect to the request to provide prior art teach or suggesting that it is well known to alter game software based on jurisdiction and location within a wagering device please see acres 5,836,817 column 6 that discloses changing the payable remotely in a gaming machine to make the gaming machine in line with that states gaming commission. This section also teaches that this is not currently allowed by most gaming commissions but it can be done.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Acres '817 is related to modifying the game machine by downloading information.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is (571) 272 4437. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272 3507. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JOHN M. HOTALING, II  
PRIMARY EXAMINER

January 27, 2005